

1 SNELL & WILMER L.L.P.
Philip J. Graves (SBN 153441)
2 pgraves@swlaw.com
Greer N. Shaw (SBN 197960)
3 gshaw@swlaw.com
Deborah S. Mallgrave (SBN 198603)
4 dmallgrave@swlaw.com
350 South Grand Avenue, Suite 2600
5 Two California Plaza
Los Angeles, California 90071
6 Telephone: (213) 929-2500
Facsimile: (213) 929-2525
7
8 Attorneys for Plaintiff
James R. Glidewell Dental Ceramics, Inc.
d/b/a Glidewell Laboratories
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 JAMES R. GLIDEWELL DENTAL
CERAMICS, INC. dba GLIDEWELL
14 LABORATORIES, a California
corporation,

15 Plaintiff,

16 vs.

17 KEATING DENTAL ARTS, INC., a
18 California corporation,

19 Defendant.

20
21 AND RELATED
22 COUNTERCLAIMS.
23

Case No. SACV11-01309-DOC (ANx)
Hon. David O. Carter, Ctrm. 9D

**PLAINTIFF JAMES R. GLIDEWELL
DENTAL CERAMICS, INC.'S
[PROPOSED] VOIR DIRE BY THE
COURT**

Pre-Trial Conf.: February 26, 2013
Jury Trial: February 26, 2013

1 Plaintiff James R. Glidewell Dental Ceramics, Inc. (“Glidewell”), by and
 2 through its counsel of record, requests, pursuant to Rule 47(a) of the Federal Rules
 3 of Civil Procedure, that the Court include the following questions in its
 4 examination of prospective jurors. Glidewell’s counsel also requests leave to
 5 orally tender supplemental questions.

6
 7
 8 Dated: February 19, 2013

SNELL & WILMER L.L.P.

9
 10 By: s/Deborah S. Mallgrave

11 Philip J. Graves

12 Greer N. Shaw

13 Deborah S. Mallgrave

14 Attorneys for Plaintiff

15 James R. Glidewell Dental Ceramics, Inc. dba

16 Glidewell Laboratories
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

Snell & Wilmer
 LLP

LAW OFFICES
 350 South Grand Avenue, Suite 2600, Two California Plaza
 Los Angeles, California 90071
 (213) 929-2500

**GLIDEWELL'S PROPOSED *VOIR DIRE* QUESTIONS
TO BE PROPOUNDED BY THE COURT**

**I. FAMILIARITY WITH CASE, ATTORNEYS, POTENTIAL
WITNESSES, AND RELEVANT PARTIES**

After swearing in the panel and confirming that they have met the qualifying characteristics for jury service, Glidewell requests that the list of parties, law firms, attorneys, and potential witnesses be read (a list is attached).

1. Do you, or someone close to you, have any experience with, or association with, any of the parties, court staff, lawyers, or law firms in this case? *[Follow up with any affirmative responses.]*
2. Do you recognize any of the names of the potential witnesses in this case? If yes, please explain how you know them.
3. The parties in this case are involved in the manufacturing and sale of dental products, including dental ceramics and dental restorative products such as crowns and bridges. How many of you were familiar with Glidewell Laboratories or Keating Dental Arts before today?
 - a. Do you know anyone who has been associated with, or ever worked for, either Glidewell Laboratories or Keating Dental Arts? *[Follow up with any affirmative responses.]*
 - b. Do you have any strong opinions about companies in the dental or medical products industry, including Glidewell Laboratories or Keating Dental Arts? If yes, please explain.
 - c. Have you had any negative experiences any company in the dental or medical products industry? If yes, please explain.
 - d. Would any of your opinions or experiences affect your ability to be an entirely fair and impartial juror in this case? If your opinion or experience might affect you, it is your duty to tell me.

- 1 4. Prior to arriving in the courtroom today, had you heard or read
 2 anything about this case? [*Follow up with any affirmative responses.*]
 3 a. [If yes:] Because of what you have read or heard, do you have
 4 any opinions, or have you formed any prejudgments, that might
 5 affect you if you are selected as a juror in this case?
 6 5. Did you know any of the other potential jurors before you came here
 7 today? If yes, please tell us who you know and how you know them.
 8 6. Do you think that either party starts out ahead in this lawsuit? Do you
 9 start out favoring one party over the over for any reason? You must
 10 tell me if you do.

11 **II. QUESTIONS SPECIFIC TO THIS CASE**

12 **A. Case-Relevant Experiences and Attitudes**

- 13 1. Have you or any close friends or family members ever had any
 14 training or experience related to any of the following: [If yes to any,
 15 please describe when and where the training or experience was
 16 obtained, and whether there is anything about this experience that
 17 might influence your consideration of the evidence if selected as a
 18 juror in this case.]
 19 a. Law, the legal field, or the courts?
 20 b. Dentistry, dental surgery or treatment, dental restorations such
 21 as crowns and bridges, dental ceramics, or the dental products
 22 industry?
 23 c. Dental or medical billing?
 24 d. Pharmacy or prescription services?
 25 e. Intellectual property, including trademarks, copyrights, trade
 26 dress, and/or patents?
 27 f. Market research, marketing, branding, or advertising?
 28 g. Product design, development, or packaging?

- h. Accounting or finance?
 - i. Industry or trade publications, conferences, meetings, or shows?
 - j. Franchising?
2. Do you have any familiarity with, or personal experience with, advertising in industry publications, or with attending or presenting at trade shows? *[Follow up with any affirmative responses.]*
 3. Is there anyone who has ever had any dental work done beyond having a cavity filled or regular cleanings?
 4. Do you have any personal experience with dental procedures or products that include any of the following: dental bridges, caps, crowns, implants, inlays, onlays, and prostheses? *[Follow up with any affirmative responses.]*
 5. Do you have any familiarity with the terms brux, bruxer, or bruxing? *[Follow up with any affirmative responses.]*
- Do you have any familiarity with a material called zirconia?
6. Have you or someone close to you ever been treated for teeth grinding? *[Follow up with any affirmative responses.]*
 - a. Do you know the brand name or maker of the product used?
 7. Have you ever invented something or owned or applied for a copyright or trademark? *[Follow up with any affirmative responses.]*
 8. Have you or someone close to you ever been involved in a dispute over a trademark, patent, trade dress, copyright, or other intellectual property? *[Follow up with any affirmative responses.]*
 9. Have you ever worked for a company that applied for a trademark, patent, or copyright? If yes, explain.
 - a. Have you ever worked with patents, trademarks or copyrights?

- b. Have you or a company you've worked for ever been involved in any lawsuit or dispute regarding a patent, trademark, or copyright?
10. Do you have any strong opinions about trademarks? *[Follow up with any affirmative responses.]*
11. Have you, someone close to you, or a company you worked for, ever been accused of using a trademark or brand that was confusingly similar to someone else's trademark or brand? *[Follow up with any affirmative responses.]*
12. Have you, someone close to you, or a company you worked for, ever been accused of unfair competition? *[Follow up with any affirmative responses.]*
13. Have you or someone close to you ever owned or run a business, been self-employed, or invested in or been part of a start-up business?
- a. What is/was your/their role in the company and how many employees are/were there?
- b. Did anyone ever interfere with your business? If yes, please explain. How did that affect you? Could that experience affect your ability to be a completely fair and impartial juror in this case?
14. Have you or someone close to you ever been accused of wrongdoing by a previous employer or business associate after starting a new job or a new business? *[Follow up with any affirmative responses.]*
15. How many of you have experience working in a highly competitive industry in which companies compete for the same business or customers? If yes, what products or services are/were involved?

16. Do you think you would favor one party over another in a lawsuit because of the size of the companies involved? [*Follow up with any affirmative responses.*]

Do you think that doctors are less likely to be confused over similar brands or product names?

17. Is there anything that you have not yet discussed that you want to mention to the Court because it might impact your ability to be a completely fair and impartial juror?

III. GENERAL BACKGROUND QUESTIONS

To the extent these questions are not covered by the Court's customary *voir dire*, Glidewell submits the following questions concerning general topics for civil cases.

A. Background Questions

1. Without telling me your address, in what neighborhood or community do you currently live? How long have you lived there?
2. What is the highest level of education you have obtained, including any degrees, certifications, or licenses?
3. What is your current occupation, and who is your employer? If your current or most recent job does not reflect what you have done for work for most of your adult life, please tell us what position you held the longest.
 - a. If you are retired, what was your occupation in the past and who was your employer?
4. If you are married or partnered, what is your spouse's/partner's current occupation or employment and where does he or she work?
5. If you have children, what are their ages and occupations?
6. If English is not your first language, and if you feel that could create a difficulty for you as a juror, would you raise your hand?

- a. What is your first language? Do you speak (prospective juror's first language) in the home, at work, or where you shop? How long have you lived in the United States? Have you taken any classes in English?

B. Law, Litigation, and the Courts

1. Have you served on a jury before, including on a Grand Jury? If yes:
 - a. How many times?
 - b. Was it in state or federal court, and was it a civil or criminal case?
 - c. What type(s) of case(s) were they?
 - d. Did the jury reach a verdict (in all of the cases)?
 - e. Were you ever the foreperson?
 - f. Is there anything about your prior jury service that would affect your ability to serve as a trial juror in this case?
2. Have you, or anyone close to you, ever been a plaintiff, defendant, witness, or other interested party in a lawsuit? If yes:
 - a. Were you or they the plaintiff, the defendant, a witness, or something else?
 - b. What kind of case was it, when did it occur, and was there a trial?
 - c. What was the outcome of the case, and were you satisfied with the outcome?
 - d. Is there anything about your experience(s) that affected your opinion of the legal system or your ability to be an entirely fair and impartial juror to both sides in this case?
3. Do you know any lawyers, judges, private investigators, or people who work in the courts? If yes, what are their names and relationship to you?

4. Do you have an opinion about the damages awarded in lawsuits that would affect your ability to be an entirely fair and impartial juror in this case? If yes, explain.
5. Does anyone belong to any tort reform groups? [If yes, please explain.]
6. If the law and evidence supports it, will you be able to render a verdict in favor of the plaintiff and award the plaintiff damages?

C. Deciding the Case Based on the Evidence and the Law

1. Will you follow the law and instructions that the Court gives to you, regardless of whether you agree with them?

D. Final Questions

1. Do you have any ethical, cultural, religious, political, or other beliefs that may prevent you from serving as a juror in this case that you haven't already told us about?
2. Do you have any problems such as vision, hearing, medical, language, or other problems that may affect your jury service?
3. Please raise your hand if you write on any blogs, or use any social media sites such as Facebook or Twitter? How often do you blog or visit social media sites?
 - a. Will it be difficult for you to avoid doing any of your own research about this case or cases like it, on the Internet or anywhere else? Do you have any doubts at all? [Give strong admonition against doing independent research about the case, parties, or lawyers.]
4. Do you believe that you could serve as a completely fair and impartial juror in this case without any reservation?
5. Is there anything else that you wish to tell the Court that might affect your ability to serve as a juror in this case?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. Has anything occurred during this question and answer period that makes you doubt that you would be completely fair and impartial in this case? If there is, it is your duty to tell the Court at this time.

Attachment to Glidewell's Proposed *Voir Dire* by the Court

List of Parties, Law Firms, Attorneys, and Potential Witnesses

1. Parties and Affiliates

James R. Glidewell Dental Ceramics, Inc. d/b/a Glidewell Laboratories
 BioTemps Dental Laboratory
 DigiTech Dental Restorations
 Las Vegas Digital Dental Solutions
 New West Dental Ceramics
 Pacific Edge Dental Laboratories
 PrismaTik Dentalcraft, Inc.
 Riverside Dental Ceramics
 Smith-Sterling Dental Laboratories
 Keating Dental Arts, Inc.

2. Law Firms and Attorneys

Attorneys for Plaintiff James R. Glidewell Dental Ceramics, Inc. d/b/a Glidewell Laboratories

SNELL & WILMER L.L.P.
 Philip J. Graves
 Greer Shaw
 Deborah S. Mallgrave

Attorneys for Defendant Keating Dental Arts, Inc.

KNOBBE MARTENS OLSON AND BEAR L.L.P.
 David G. Jankowski
 Jeffrey L. Van Hoosear
 Lynda J. Zadra-Symes
 Darrell L. Olson

ENTERPRISE COUNSEL GROUP

David A. Robinson
 James Azadian

3. Potential witnesses

Keith Allred
 Dr. Benjamin An
 Robin Bartolo
 Dr. Thomas E. Bell
 Dr. Ilya Benjamin
 Scott Bigler
 Dr. Chester A. Bizga
 Lori Boatright

Snell & Wilmer
 LLP
 LAW OFFICES
 600 Anton Boulevard, Suite 1400
 Costa Mesa, California 92626-7689
 (714) 427-7000

1 Catherine Bonser
2 Robert Brandon
3 Dr. Vincent S. Cianciulli
4 Robin Carden
5 Michael Cash
6 Kareen Chamberlain
7 Dr. Howard S. Cohen
8 Dr. Joshua Colkmire
9 Dr. Michael DiTolla
10 Dr. Gregory Doneff
11 Diane Mallos Donich
12 Dr. David Eggleston
13 Dr. Meredith S. Esposito
14 Nicole Fallon
15 Dr. Michael J. Fanning
16 Dr. Valentine Ferraris
17 Prof. David J. Franklyn
18 Carol Frattura
19 Wolfgang Friebauer
20 Dr. Dennis A. Gaishauser
21 Dr. Ronald E. Goldstein
22 Dr. Oscar Goren
23 Thomas Gourde
24 Dr. John Griffith
25 Shaun Keating
26 Kevin Keithley
27 Dr. Jade Le
28 Dr. Spencer D. Luke
Dr. Robert McNicholas
Dr. Terence J. Michiels
Troy Mosley
Dr. Stuart R. Newman
Rudy Ramirez
Dr. Dean Saiki
Glenn Sasaki
James Shuck
Dr. Paul Taylor
Dr. Kent J. Toca
Jacob Trachsel
Dr. Glen Yamamoto

Glidewell Laboratories v. Keating Dental Arts, Inc.
United States District Court, Central, Case No. SACV11-01309-DOC (ANx)

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2013, I electronically filed the document described as **PLAINTIFF JAMES R. GLIDEWELL DENTAL CERAMICS, INC.'S [PROPOSED] VOIR DIRE BY THE COURT** the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

David G. Jankowski
Jeffrey L. Van Hoosear
Lynda J Zadra-Symes
Darrell L. Olson
Knobbe Martens Olson and Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

**Attorneys for Defendant Keating
Dental Arts, Inc.**
Tel: (949) 760-0404
Fax: (949) 760-9502

Jeffrey.VanHoosear@kmob.com
David.Jankowski@kmob.com
Lynda.Zadra-symes@kmob.com
Darrell.Olson@knobbe.com
litigation@kmob.com

David A. Robinson
James Azadian
Enterprise Counsel Group
Three Park Plaza, Suite 1400
Irvine, CA 92614

**Attorneys for Defendant Keating
Dental Arts, Inc.**
Tel: (949)833-8550
Fax: (949) 833-8540

drobinson@enterprisecounsel.com
jazadian@enterprisecounsel.com

Dated: February 19, 2013

SNELL & WILMER L.L.P.

By: s/Deborah S. Mallgrave

Philip J. Graves
Greer N. Shaw
Deborah S. Mallgrave

Attorneys for Plaintiff
James R. Glidewell Dental Ceramics, Inc.
dba GLIDEWELL LABORATORIES

16139994.1